

GRANTEE PROCUREMENT GUIDELINES

I. GENERAL INFORMATION

This document provides guidelines to be followed by Project Sponsors for purchases made with grant funding from the Department of Conservation and Recreation. The guidelines are organized by purchases of goods and nonprofessional services, purchases of professional services, Virginia Public Procurement Act exemptions, and references.

Public purchasing embraces a fundamental obligation to the general public to ensure that procurements are accomplished in accordance with the intent of the laws. The intent of the Virginia General Assembly is set forth in the *Virginia Public Procurement Act [VPPA], Title 2.2, Chapter 43 of the Code of Virginia*. According to the VPPA, all public contracts with nongovernmental contractors for the purchase or lease of goods, or for the purchase of services, insurance, or construction, shall be awarded after competitive sealed bidding, or competitive negotiation as required by the VPPA, unless otherwise authorized by law.

To the end that public bodies in the Commonwealth obtain high quality goods and services at reasonable cost, that all procurement procedures be conducted in a fair and impartial manner, it is the intent of the General Assembly that competition be sought to the maximum feasible degree, that procurement procedures involve openness and administrative efficiency, that individual public bodies enjoy broad flexibility in fashioning details of such competition, and that specifications reflect the procurement needs of the purchasing body rather than being drawn to favor a particular vendor. [*Excerpted content from the VPPA.*]

Any public body whose governing body has adopted alternative procurement policies to meet the VPPA requirements may follow their own established guidelines, assuming they provide for the provisions identified in the VPPA. The VPPA identifies the following requirements:

- **Small purchases procurements** from \$30,000 - \$50,000 for goods and services, other than professional services, require the written solicitation of a minimum of four bidders.
- **Competitive sealed bidding** or **competitive negotiation** is required for purchases estimated to be over \$50,000; and may be used for lesser amounts.
- Upon a determination in writing that there is only **one source** practicably available for services to be procured, a contract may be negotiated and awarded to that source without competitive sealed bidding or competitive negotiations. [Requires DCR approval.]
- Professional services above \$30,000 must be procured by **competitive negotiation**.

II. GOODS AND NONPROFESSIONAL SERVICES

Virginia procurement guidelines emphasize the use of competition to the maximum feasible degree. The use of sole source procurements must be limited to instances where it can be demonstrated that only one source is practicably available. Acceptable procurement methods and the associated *VPPA* thresholds and requirements to be followed for the purchase of goods and nonprofessional services with grant funding from the DCR are identified in this section. Definitions for goods and nonprofessional services are below. The nonprofessional services definition is provided as it pertains to building planning, construction and renovation projects.

- **Goods:** All material, equipment, supplications, printing, and automated data processing hardware and software.
- **Nonprofessional Services:** Cost consultants, soils testing, concrete testing, project management, project administration, and other services that may be performed by either licensed or non-licensed architects, engineers or others are considered to be Nonprofessional Services. [*Virginia Construction & Professional Services Manual.*]

A. Small Purchase Procurements (Not to Exceed \$50,000)

Small purchase procedures for single or term contracts for goods and services other than professions services not expected to exceed \$50,000 shall provide for competition wherever practicable. Small purchase procedures that are expected to exceed \$30,000 require the written informal solicitation of a minimum of four bids or offers.

- Over \$5,000 to \$30,000 – Follow procedures established by the public body. Solicitation of a minimum of four bidders is recommended.
- Over \$30,000 to \$50,000 – *VPPA* requires the written informal solicitation of a minimum of four bidders. See example bid solicitation form.

B. Competitive Sealed Bidding (Over \$50,000; And As Preferred)

Purchases of goods and nonprofessional services that will be over \$50,000 must use the following procedures for competitive sealed bidding. Purchases under \$50,000 may select to use this method as preferred.

- 1) Issue a written Invitation for Bid (IFB) containing or incorporating by reference the specifications, contractual terms and conditions, and any requisite qualifications.
- 2) Posting of public notice for at least 10 workdays in designated area, or publication in a newspaper of general circulation, or both.
- 3) Public opening and announcement of all bids received.

- 4) Evaluate all bids based upon requirements set forth in the IFB.
- 5) Award to the lowest responsive and responsible bidder.

Competitive bidding is the preferred method for acquiring goods and nonprofessional services for public use when the estimated cost is over \$50,000. If a competitive bidding is not practicable or fiscally advantageous then competitive negotiation may be used. Details on competitive negotiation guidelines are provided under the Professional Services section that follows.

C. Sole Source

The use of **sole source** procurement must be limited to instance where it can be demonstrated that only one source is practicably available. Competition is not available in a sole source situation. Sole source procurements require written approval from DCR before work can begin. DCR will consider approval of contractor selection based on a previously conducted solicitation or other procedures used as is appropriate and as it directly pertains to the grant-funded project. For sole source approvals, the Project Sponsor must provide a written request to the DCR Project Manager, documenting the determination that there is only one source practicably available. The sole source approval request must address the following four points:

- 1) Explain why this is the only product or service that can meet the needs of the Project Sponsor?
- 2) Explain why this vendor is the only practicably available source from which to obtain this product or service?
- 3) Explain why the price is considered reasonable?
- 4) Describe the efforts that were made to get the best possible price?

III. PROFESSIONAL SERVICES

The *Virginia Public Procurement Act* sets forth the general parameters for the procurement of professional services. Further definition of the requirements for procurement of professional services is provided in the *Commonwealth of Virginia: Construction & Professional Services Manual – 2004, Chapter 4: Procurement Procedures for Professional Services*.

The policy of the Commonwealth is to contract with a single entity in acquiring the full range of disciplines necessary to provide the services identified for the project. Once an Architectural / Engineering Firm (A/E) is selected they generally continue to work on the projects even if there are change requests, up to a cap amount. Two state procurement method options are provided in this section for which professional services to be performed under DCR grant projects are to be solicited. The following definition is used for the types of professional services typically required for capital outlay projects and for building planning, construction and renovation projects.

- **Professional:** Land surveyors, geotechnical engineers, soils engineers, or any service requiring the use of a licensed architect, engineer, or surveyor are by state law considered to be and shall be procured as Professional Services.

A. Small Purchase Professional Service (Less Than \$30,000)

The Project Sponsor should follow purchase procedures for professional services as established by the public body. Provide for competition wherever practicable. A recommended approach for contracts less than \$30,000 is outlined below based on the *Construction & Services Manual*.

- 1) Conduct telephone or personal interviews with representatives from three Architectural / Engineering Firms to determine current personnel qualifications, location relative to the work, expertise, workload, capability to meet the proposed schedule, past performance on similar projects and ability to provide the services within budgeted costs.
- 2) Rank order A/Es or other contractors and negotiate fee for service. Final selection is a judgment call based on the services the firm says they can provide for the given amount. If total fee will be less than \$5,000, it is only necessary to call one qualified A/E.

B. Competitive Negotiation (Professional Services Over \$30,000)

Competitive negotiation is defined in the Virginia Law in the *Virginia Public Procurement Act* and is used to select contractors for professional services expected to be greater than \$30,000, and for smaller amounts as desired. An important aspect of competitive negotiation is that the Project Sponsor uses a qualification, suitability, and capability based selection process. Factors used in the selection process may include technical expertise, previous experience, adequate staffing, and location of the firm. The selection process is then followed by competitive fee negotiations with the selected offeror. The competitive negotiation method includes:

- 1) Issue a written Request for Proposals (RFP) that contains the specifications, contractual terms and conditions of the procurement, and factors to be used in evaluating proposals. The RFP must include a statement of any requisite qualifications of potential contractors.
- 2) Public notice of the RFP for at least 10 workdays in an area normally used for public notices, and publication in a newspaper of general circulation for the area of the project.
- 3) Receive, evaluate, and rank the respondents based on criteria listed in the RFP.
- 4) Interview two or more of the top ranked respondents who are deemed fully qualified, responsible, and suitable to provide the services. These negotiations are intended to elaborate on their qualifications, performance data, expertise, or alternative concepts. Price shall be considered but need not be the sole determining factor.
- 5) Negotiate fee with the Architectural / Engineering Firm ranked first as to overall suitability and qualifications. If you cannot reach agreement on a fee amount, formally terminate the negotiation in writing, and proceed to the A/E ranked second, third, etc.

IV. VPPA EXEMPTION

The provisions of the *VPPA* do not apply to a number of entities under particular circumstances. Reference Article 3 of the *VPPA* for the full listing. The exemption of the *VPPA* provisions pertaining to nonprofit organizations is excerpted below.

Procurement of any construction or planning and design services for construction by a Virginia nonprofit corporation or organization not otherwise specifically exempted when (i) the planning, design or construction is funded by state appropriations of \$10,000 or less or (ii) the Virginia nonprofit corporation or organization is obligated to conform to procurement procedures that are established by federal statutes or regulations, whether those federal procedures are in conformance with the provisions of this chapter [*VPPA*].

V. REFERENCES

- ***Virginia Public Procurement Act***. Defined by statute in the Code of Virginia.
<http://www.eva.state.va.us/dps/Manuals/docs/vppa.htm>
- ***Virginia Agency Procurement and Surplus Property Manual***. Published by the Virginia Department of General Services, Division of Purchases and Supply.
<http://dps.dgs.virginia.gov/dps/Manuals/manuals-bottom.htm>
- ***Virginia Construction & Professional Services Manual (2004)***. Published by the Virginia Bureau of Capital Outlay Management. Chapter 4 – Procurement Procedures for Professional Services. http://bcom.dgs.virginia.gov/RDetailPg.aspx?I_PAGE_ID=4

DCR GRANT BID SOLICITATION SHEET

| | | | |
|--|------------------|-----------------------------|------------------|
| DCR Grant Number: | | Date Needed: | |
| Project Sponsor: | | Quotes Solicited By: | |
| Description of Goods or Service to be Provided: <i>Below, provide a description of the goods or services to be provided or attach a copy of the specifications used with the bid solicitation.</i> | | | |
| | | | |
| VENDOR DETAILS | BIDDER #1 | BIDDER #2 | BIDDER #3 |
| Date Contacted | | | |
| Vendor's FIN or SSN | | | |
| Vendor's Name | | | |
| Vendor Address | | | |
| Contact Person | | | |
| Phone Number | | | |
| Email Address | | | |
| FACTORS/BID INFO: | BIDDER #1 | BIDDER #2 | BIDDER #3 |
| Labor Costs | \$ | \$ | \$ |
| Materials Costs | \$ | \$ | \$ |
| Total Bid Price | \$ | \$ | \$ |
| Payment Terms | | | |
| Performance Period | | | |
| Other Information | | | |
| Comments: <i>(Use if unable to obtain four bids or to justify not using low bidder.)</i> | | | |